FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.572 OF 2005

AND

APPEAL FROM ORDER NO.494 OF 2005

Office Notes, Office Memoranda appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Order

Shri.A.Y.Sakhare with R.S.Datar, for Applicant/appellant.

Mrs.S.I.Shah, for Respondent

CORAM: D.K.DESHMUKH,J.

DATED: 13th July, 2005.

P.C.:-

1. By the application filed before the District Court under Section 9 of the Arbitration and Conciliation Act which is at Exhibit 39 on the record of the District Court, the petitioner was seeking order for police help to remove the machinery and equipment from the premises of the opponent

-Central Warehousing Corporation. There is no dispute that the machinery and equipments in relation to which the order was sought belongs to the appellant. There also does not appear to be any claim because some money is recoverable by the opponent from the applicant and that the machinery and equipments have been charged for that demand. The only submission that was made is that the applicant has not paid to the labour and therefore, the labour is objecting for removal of the machinery. In my opinion, unless and until there is order obtained from the competent court by the opponent or by the labourers preventing the appellant from removing the machinery which belongs to the appellant, the opponent can not object for appellant being given police help for removal of the machinery. From the order impugned, I do not see any cogent reason given by the District Court for not permitting the applicant/appellant to remove the machinery and equipments and for giving it

police help for doing so. If the labour has any claim against the applicant/appellant, they are free to approach the competent court of law and obtain suitable orders. In my opinion, taking overall view of the matter therefore, following order would meet the ends of justice:-

(i) The order impugned in the Appeal is set aside.

(ii) The Civil application is granted in terms of prayer clause (a). However, it is directed that the applicant/appellant be permitted to take out its machinery and equipments under the police protection only after expiry of 10 days from today.

(iii) It goes without saying that if in the mean time the other opponents or labour union secure an appropriate order from the competent Court of law, then this order shall not operate.

The Civil Application and Appeal are disposed of.